

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

ADAM LONGORIA §
v. § CIVIL ACTION NO. 5:02cv112
STATE OF TEXAS, ET AL. §

MEMORANDUM ADOPTING SECOND REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

The Plaintiff Adam Longoria, proceeding through retained counsel, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights during his confinement in the Texas Department of Criminal Justice, Correctional Institutions Division. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On May 24, 2005, the court issued an order denying the Defendants' motion for summary judgment. The Defendants took an interlocutory appeal of this order. On December 21, 2006, the Fifth Circuit issued an opinion reversing this court in part. Specifically, the Fifth Circuit held that the Defendants Farr, Glass, Peacock, Rogers, Stafford, and Staggs were entitled to qualified immunity as a matter of law. The Fifth Circuit dismissed the appeals of the remaining Defendants, Hudson and Johnson, concluding that disputed issues of fact precluded jurisdiction over these appeals.

On January 25, 2007, the Magistrate Judge issued a Report recommending that the claims against Farr, Glass, Peacock, Rogers, Stafford, and Staggs be dismissed, inasmuch as these defendants are shielded by qualified immunity as a matter of law. A copy of the Magistrate Judge's Report was sent to the parties, but no objections have been received; accordingly, the parties are

barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the Report of the Magistrate Judge and has determined that it is correct. It is accordingly

ORDERED that the Plaintiff's claims against the Defendants Farr, Glass, Peacock, Rogers, Stafford, and Staggs be and hereby are DISMISSED with prejudice. It is further

ORDERED that the Defendants Farr, Glass, Peacock, Rogers, Stafford, and Staggs are hereby DISMISSED as parties to this lawsuit. Finally, it is

ORDERED that the dismissal of these claims and parties shall have no effect upon the Plaintiff's claims against Major Hudson and Officer Johnson.

SIGNED this 2nd day of March, 2007.



DAVID FOLSOM
UNITED STATES DISTRICT JUDGE